

OBERLY, JENNINGS & RHODUNDA, P.A.

1220 Market Street – Suite 710

P. O. Box 2054

Wilmington, Delaware 19899

Charles M. Oberly, III
Kathleen M. Jennings
William J. Rhodunda, Jr.

Karen V. Sullivan

(302) 576-2000
Fax (302) 576-2004
E.I.No. 51-0364261
Writer's e-mail coberly@ojlaw.com

December 5, 2006

Via E-filing & Hand Delivery

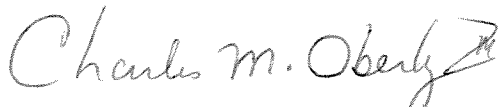
The Honorable Joseph J. Farnan
United States District Court
District of Delaware
844 North King Street
Wilmington, DE 19801

Re: Levey et al. v. Boat America Corporation, et al; C.A. No. 1:06-cv-510 JJF

Dear Judge Farnan:

Enclosed is a Proposed Rule 16 Scheduling Order agreed to by the parties pursuant to a conference that occurred on November 29, 2006. Counsel will be available at the Courts convenience for a Pretrial Conference.

Respectfully submitted,



CHARLES M. OBERLY, III (No. 743)

CMO/all

Enclosure

cc: Steven K. Carr, Esquire (via First Class Mail)
William J. Kattie, III (via CM/ECF)
Michael B. McCauley (via CM-ECF)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

Howard Levey, John and Susan L. Walter, h/w : <i>and</i> : Allstate Insurance Company : <div style="text-align: right;">Plaintiffs</div> :	:	C.A. No. 1:06-cv-510 JJF
V.	:	
Boat America Corporation, : <i>and</i> : Delaware Bay Launch Service, Inc. :	:	
Defendants	;	

RULE 16 SCHEDULING ORDER

The parties having satisfied their obligations under Fed. R. Civ. P. 26(f),

IT IS ORDERED that:

1. **Pre-Discovery Disclosures.** The parties will exchange by January 8, 2007 the information required by Fed. R. Civ. P. 26 (a)(1) and D. Del. LR 16.2.

2. **Joinder of other Parties.** All motions to join other parties shall be filed on or before January 29, 2007.

3. **Settlement Conference.** Pursuant to 28 U.S.C. § 636, this matter is referred to Magistrate Judge Thyng for the purposes of exploring the possibility of a settlement. IF the parties agree that they would benefit from a settlement conference, the parties shall contact Magistrate Judge Thyng to schedule a settlement conference so as to be completed no later than the Pretiral Conference or a date ordered by the Court.

4. **Discovery.**

a. Exchange and completion of interrogatories, identification of all fact witnesses and document production shall be commenced so as to be completed by March 15, 2007.

b. Maximum of 45 interrogatories by each party to any other party.

c. Maximum of 25 requests for admission by each party to any other party.

d. Maximum of 5 depositions by plaintiff(s) and 10 by defendant(s).

Depositions shall not commence until the discovery required by Paragraph 4 (a, b and c) are completed.

e. Reports from retained experts required by Fed. R. Civ. P. 26 (a)(2) are due from the plaintiff(s) by July 18, 2007; from the defendant(s) by August 17, 2007.

f. Expert depositions to be completed by September 14, 2007.

g. Any party desiring to depose an expert witness shall notice and complete said deposition no later than thirty (30) days from receipt of said expert's report, unless otherwise agreed in writing by the parties.

5. Discovery Disputes.

a. A party seeking discovery which the opposing party refuses to provide shall file a motion (no brief) pursuant to Rule 37 of the Federal Rules of Civil Procedure and Local Rule 37.1. Said motion shall not exceed a total of four (4) pages. An Answer to the Rule 37 motion, not to exceed four (4) pages, shall be filed within five (5) days of service of the motion. No reply is permitted.

b. All papers shall set forth in a plain and concise manner the issue(s) in dispute, the party's position on the issue(s), and the reasons for the party's position.

c. Upon receipt of the Answer, the movant shall notify Chambers by email at jjf_civil@ded.uscourts.gov that the parties have completed briefing.

d. Upon receipt of movant's email, the Court will determine whether a conference is necessary and advise the parties accordingly.

e. There is no limit on the number of Rule 37 motions a party may file, unless otherwise ordered by the Court.

6. **Amendment to the Pleadings.** All motions to amend the pleadings shall be filed on or before October 15, 2007.

7. **Case Dispositive Motions.** Any case dispositive motions, pursuant to the Federal Rules of Civil Procedure, shall be served and filed with an opening brief on or before October 31, 2007. Briefing shall be pursuant to D. Del. LR 7.1.2. No case dispositive motion may be filed more than ten (10) days from the above date without leave of the Court.

8. **Applications by Motion.**

a. Any applications to the Court shall be by written motion filed with the Clerk of the Court in compliance with the Federal Rules of Civil Procedure and the Local Rules of Civil Practice for the United States District Court for the District of Delaware (Amended Effective January 1, 1995). Any non-dispositive motion shall contain the statement required by D. Del. LR 7.1.1. Parties may file stipulated and unopposed Orders with the Clerk of the Court for the Court's reviewing and signing. The Court will not consider applications and requests submitted by letter or in a form other than a motion.

b. No facsimile transmissions will be accepted.

c. No telephone calls shall be made the Chambers.

d. Any party with a true emergency matter requiring the assistance of the Court shall email Chambers at: Jjf_civil@deb.uscourts.gov. The email shall provide a short statement describing the emergency.

9. **Pretiral Conference and Trial.** After reviewing the parties Proposed Scheduling Order, the Court will schedule a Pretrial Conference.

The Court will determine whether the trial date should be scheduled when the Scheduling Order is entered or at the Pretrial Conference. If Scheduling of the trial date is deferred until the Pretrial Conference, the parties and counsel shall anticipate and prepare for a trial to be held within sixty (60) to ninety (90) days of the Pretrial Conference.

Date

United States District Judge